

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVE MICHAEL COX,)	3:03-CV-0651-PMP (RAM)
)	
Plaintiff,)	<u>MINUTES OF THE COURT</u>
)	
vs.)	June 7, 2006
)	
E.K. McDANIEL, et al.,)	
)	
Defendants.)	
_____)	

PRESENT: THE HONORABLE ROBERT A. McQUAID, JR., U.S. MAGISTRATE JUDGE

DEPUTY CLERK: GINA MUGNAINI REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

The NDOC Defendants have filed a Motion for Rule 11 Sanctions (Second Request) (Doc. #122). There has been no opposition.

The Local Rules provide that failure of a party to file an opposition is a consent to the granting of the Motion. However, in this case, the Defendants are seeking a dismissal of the case as the sanction. Under those circumstances, the court believes that it should look at the merits of Defendants' Motion.

Defendants request the sanction of dismissal based on the Plaintiff's statement in his Opposition to Defendants' Motion to Dismiss Count I of Plaintiff's Complaint that "Plaintiff is denied photocopying privileges and cannot submit these originals of three grievances in this motion opposing dismissal of Count I". As evidenced by the Affidavit of Melaine Mason attached to Defendants' Motion that statement of the Plaintiff was apparently false.

The history of this case, however, is that the Defendants submitted copies of those grievances in their Reply in Support of the Motion to Dismiss (Doc. #113) and after hearing, there was a Report and Recommendation of U.S. Magistrate Judge to grant the Motion to Dismiss (Doc. #124) which was subsequently adopted by the District Judge (Doc. #135).

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Without minimizing the severity of a party making misrepresentations to the court, the misrepresentation in this instance had no substantive effect on the outcome of this matter. The real effect of misrepresentations such as this is that a party's credibility is lowered in the eyes of the court. That is, in fact, the effect in this instance.

Defendants' Motion for Rule 11 Sanctions (Second Request) (Doc. #122) is **DENIED**.

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By: _____/s/_____
Deputy Clerk